UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/79/Add.11
28 December 1992

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

LUXEMBOURG

1. The Committee considered the second periodic report of Luxembourg (CCPR/C/57/Add.4) at its 1186th and 1187th meetings, held on 19 October 1992 and adopted* the following comments:

A. Introduction

2. The Committee commends the State party on its report which contains clear and basic information on laws relating to the implementation of the Covenant's provisions. The Committee, however, regrets that the report lacks information concerning the actual situation on the ground, including factors and difficulties which may affect the implementation of the Covenant.

3. The Committee also commends Luxembourg for the core document (HRI/CORE/1/Add.10) submitted in accordance with the consolidated guidelines for the initial part of reports submitted under the various international human rights instruments (HRI/1991/1).

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* At the 1203rd meeting (forty-sixth session), held on 5 November 1992.

4. The Committee expresses its appreciation for the high-level delegation which represented the State party during the consideration of its report. The competence of that delegation and the cooperation it demonstrated in responding to requests for further information facilitated a constructive dialogue between the Committee and the State party.

B. Positive aspects

5. The Committee welcomes the position accorded to the Covenant within the hierarchy of the State party's national law. The Committee has noted the delegation's statement that the provisions of the Covenant may be directly invoked in the courts and that, where there is a conflict between those provisions and national law, the Covenant is accorded supremacy. The Committee also welcomes the initiative taken to ensure the abolition of the death penalty.

C. Principal subjects of concern

6. The Committee expresses its concern over the insufficient publicity given to the Covenant among persons in those professions most concerned with its application and among the general public, which thus may not be adequately informed of the protection afforded by the Covenant and of the possibility of submitting individual communications under the Optional Protocol.

7. With respect to the treatment of prisoners, the Committee is concerned over present practices pertaining to solitary confinement which are incompatible with article 10 of the Covenant. Additionally, there is no remedy available with regard to the decision of the Prosecutor General to apply solitary confinement. Another area of concern is the application of pre-trial detention which may lead to excessive periods of detention and which may infringe upon the presumption of innocence.

8. Other areas of concern include article 18 of the Constitution which still presupposes the existence of the death penalty; the lack of a remedy to decisions of the Prosecutor General regarding internment of the mentally ill; the deprivation of the right to vote as a further sanction in criminal cases; and continuing provision in the law for hard or forced labour, which has not yet been abolished. The Committee also notes that care must be taken with present practices for financing religious minorities to ensure that they remain in conformity with articles 2 (1) and 27 of the Covenant.

D. Suggestions and recommendations

9. The Committee recommends that the State party undertake steps to disseminate information about the Covenant and the Optional Protocol; restrict the use of solitary confinement to short, temporary periods and only where necessary as part of disciplinary measures; provide an effective remedy for those who have been subjected to solitary confinement in a prison or to internment in a facility for the mentally ill; and review legislation on criminal procedure so that it is fully in line with provisions concerning pre-trial detention under article 9 and the presumption of innocence under article 14.

10. The Committee also suggests that the State party consider abolishing the deprivation of the right to vote as part of legitimate punishment; consider a new approach to guaranteeing the rights of minorities, particularly in regard to the system of conventions between the State and various religious communities; and consider the need for a constitutional remedy to further clarify situations where conflicts may seem to arise between the provision of the Covenant and the Constitution. The Committee also invites the State party to review the reservations and interpretative declarations it made upon ratification with a view to withdrawing them as far as possible.